

ORDINANCE NO. 11-2004

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF LAKE PARK, CHAPTER 2, ARTICLE II, DIVISION 1, CREATING SECTION 2-18 ENTITLED "FILLING VACANCIES - IN CANDIDACY;" PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Lake Park, Florida is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Town Commission has adopted general provisions pertaining to the town commission and the administration of the town, which have been codified at Chapter 2 of the Code of Ordinances; and

WHEREAS, the Town's outside consultant, Municipal Code Corporation, has conducted a study and analysis of the codified provisions of the Town Code of Ordinances in order to determine which provisions of the Town's Code require amendment, repeal, modification, or revision; and

WHEREAS, Municipal Code Corporation has identified several provisions of the Code which require amendment in order to, among other things, comply with existing statutory and judicial law, to more accurately describe various aspects of the Town's administration, to update the terminology of the Code, and to correct inconsistencies, errors, and misnomers presently contained in the Town's Code; and

WHEREAS, Municipal Code Corporation has recommended to the Town Commission that Section 2-18 of Chapter 2, Article I, Division 1 of the Town's Code be created to comply

with Section 166.031(6), Florida Statutes, which requires the Town to provide procedures for filing a vacancy in candidacy; and

WHEREAS, the Town Commission has reviewed the recommendations of Municipal Code Corporation, and has determined that creating Section 2-18 of Chapter 2, Article I, Division 1 of the Town's Code of Ordinances is necessary to further the public's health, safety and welfare.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA:

Section 1. The whereas clauses are incorporated herein as true and correct and as the findings of the Town Commission.

Section 2. Chapter 2, Article I, Division 1, Section 2-18 of the Code of Ordinances of the Town of Lake Park, Florida is hereby created to read as follows:

Sec. 2-18. Filling vacancies - In candidacy.

(1) If the withdrawal, death or removal from the ballot of a qualified candidate following the end of the qualifying period results in only one candidate remaining for that office shall be declared the winner.

(2) If the death, withdrawal or removal from the ballot of a qualified candidate following the end of the qualifying period results in there being no candidates for an office, and more than 21 days remain prior to the date of the election, qualifying shall be reopened to allow candidates to qualify for that office in accordance with the Town Charter and this Code. Any candidate wishing to qualify shall do so no later than 12:00 noon of the 21st day prior to the date of the election.

(a) If less than 21 days remain to the election date after the death, withdrawal or removal from the ballot of the lone qualified candidate for an office, and if a vacancy shall result on the town commission, the remaining mayor and commissioners shall appoint, by majority vote, a person otherwise qualified to be a mayor or commissioner, and the person so appointed shall serve as mayor or commissioner for the entire term. If the commission does not appoint a person to fill the vacancy within 30 days after the first regular commission meeting held after the

portion of the term. The special election shall be held not less than 30 days nor more than 90 days after the initial 30-day period has expired.

(b) If the qualifying period is reopened pursuant to this section, supplemental absentee ballots reflecting the new candidates who have qualified for office shall be mailed by the town clerk as soon as possible to any absentee voter who was mailed an absentee ballot. If an absentee voter returns the initial ballot he was mailed, his vote for the office for which qualification was reopened shall be null and void, but his vote on any other offices shall be counted.

(3) The name of any qualified candidate who has withdrawn, died or been removed from the ballot shall not be printed on the ballot. If the ballot cannot be changed, any votes for that candidate shall be null and void.

(4) A candidate withdrawing or being removed from the ballot after having qualified and paid the qualification fee shall not receive a refund of the qualifying fee.

Section 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 4. Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 5. Codification. The sections of the Ordinance may be made a part of the Town Code of Laws and Ordinances and may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

Section 6. Effective Date. This Ordinance shall take effect immediately upon adoption.

Upon First Reading this 21st day of April, 2004 the foregoing ORDINANCE was offered by Vice Mayor Balius who moved its approval. The motion was seconded by Commissioner Ed Daly, and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR PAUL CASTRO	X	
VICE MAYOR CHUCK BALIUS	X	
COMMISSIONER PAUL GARRETSON		ABSENT
COMMISSIONER JEFF CAREY	X	
COMMISSIONER ED DALY	X	

Upon Second Reading this 5th day of May, 2004 the foregoing ORDINANCE was offered by Commissioner *BALIUS* who moved its adoption. The motion was seconded by Commissioner *DALY* and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR PAUL CASTRO	X	
VICE MAYOR CHUCK BALIUS	X	
COMMISSIONER PAUL GARRETSON	X	
COMMISSIONER JEFF CAREY	X	
COMMISSIONER ED DALY	X	

The Mayor thereupon declared Ordinance No. 11-2004 duly passed and adopted this 5th day of May, 2004

TOWN OF LAKE PARK, FLORIDA

BY: _____

Paul Castro
Mayor Paul Castro

ATTEST:

Carol Simpkins
Carol Simpkins, Town Clerk
(Town Seal)



Approved as to form and legal sufficiency:

Thomas J. Baird
Thomas J. Baird, Town Attorney